

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

JUN 27 1987

IN THE MATTER OF:)	Docket No.	CAA-5- 2000-0 10
)		
Sparta Manufacturing Company,)	Proceeding to Assess a	
Incorporated)	Civil Penalty under	
Sparta, Wisconsin)	Section 113(d) of the	
)	Clean Air Act,	
Respondent.)	42 U.S.C. § 7413(d)	
)		

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency ("U.S. EPA"), Region 5, Chicago, Illinois.

3. The Respondent is Sparta Manufacturing Company, Incorporated, a corporation doing business in Wisconsin.

Statutory and Regulatory Background

4. On June 19, 1978, the U.S. EPA promulgated regulations to prevent the significant deterioration of air quality ("PSD regulations") pursuant to Part C of the Clean Air Act (43 Federal Register 26403). The PSD regulations are codified at 40 C.F.R. § 52.21. On January 29, 1981 (46 Federal Register 9585), the provisions of 40 C.F.R. § 52.21(b) through (w) were incorporated into and made a part of the Wisconsin State Implementation Plan (SIP). 40 C.F.R. §§ 52.21(a), 52.2570(c)(42), and 52.2581(b). Effective November 13, 1987, U.S. EPA delegated authority to

implement and enforce the PSD program in accordance with 40 C.F.R. §52.021(u) (53 Federal Register 18983, May 26, 1988).

5. 40 C.F.R. § 52.21(i) prohibits construction of a major stationary source or major modification without a permit to construct issued under PSD regulations in an area which has attained the National Ambient Air Quality Standards.

6. A major modification must comply with Best Available Control Technology ("BACT") for each pollutant subject to regulation under the Act for which the major modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit. 40 C.F.R. § 52.21(j)(3).

7. Any owner or operator who operates a source in violation of any terms of a permit to construct issued under PSD regulations is subject to enforcement action. 40 C.F.R. § 52.21(r).

8. U.S. EPA has approved Wisconsin's PSD rules, NR 405.01 through NR 405.17, as a revision to the Wisconsin SIP effective June 28, 1999 (64 Federal Register 28745, May 27, 1999).

9. Wisconsin SIP Rule 154.11(6) (NR 431.05 Wisconsin Administrative Code) was approved as part of the federally enforceable SIP effective on April 18, 1983 (48 Federal Register 9860). 40 C.F.R. § 52.2570(c)(28). Wisconsin Sip Rule 154.11(6) limits the opacity of emissions from direct and portable sources to 20 percent.

10. The Administrator of U.S. EPA (the "Administrator") may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations that occurred on or after January 31, 1997, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

11. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

12. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

General Allegations

13. Sparta Manufacturing Company, Incorporated owns and operates a grey iron foundry at 445 Holtan Street, Sparta, Wisconsin.

14. On July 19, 1996 Sparta Manufacturing Company, Incorporated was issued permit number 95-MWH-051 by the Wisconsin Department of Natural Resources, which has the authority to enforce the Wisconsin SIP. Contained within the permit are BACT limitations for processes operating at Sparta Manufacturing Company, Incorporated. Permit 95-MWH-051 was revised as permit

98-RV-120, without any changes to BACT limitations.

15. On October 27, 1999, U.S. EPA and Sparta Manufacturing Company, Incorporated held a conference to discuss the September 23, 1999 Notice of Violation ("NOV").

Count I

16. Complainant incorporates paragraphs 1 through 15 of this complaint, as if set forth in this paragraph.

17. Emissions from Sparta Manufacturing Company's cupola melt process (process P30) are subject to Best Available Control Technology limitations as specified in permits 95-MWH-051 and 98-RV-120. BACT limitations for the cupola melt system include: maintaining a cupola cap temperature of at least 1400°F.

18. Based upon monitoring and reporting records required by Sparta Manufacturing Company's air pollution control permits 95-MWH-051 and 98-RV-120, Sparta Manufacturing Company has violated its permit conditions by not maintaining a cupola cap temperature above 1400°F. Below is a summary of the number of days on which there were one or more violations of the temperature requirement:

Time Period	Number of Days on which Temperature Fell Below 1400°F
July 1998 to December 1998	138
January 1999 to June 1999	84

19. On September 23, 1999, U.S. EPA issued a NOV to Sparta Manufacturing Company, Incorporated for violations of its permit conditions, including the violations described in paragraph 18.

Count II

20. Complainant incorporates paragraphs 1 through 15 of this Complaint, as if set forth in this paragraph.

21. Emissions from Sparta Manufacturing Company's cupola melt process (process P30) are subject to Best Available Control Technology limitations as specified in permits 95-MWH-051 and 98-RV-120. BACT limitations for the cupola melt system include maintaining a maximum particulate matter emission rate of 0.008 grains/ACF.

22. Based upon stack tests done on May 5 through May 7, 1998, Sparta Manufacturing Company has violated its permit conditions by exceeding its baghouse particulate matter limit of 0.008 grains/ACF in the CEA baghouse, Ellco baghouse, and Central baghouse.

23. On September 23, 1999, U.S. EPA issued a NOV to Sparta Manufacturing Company, Incorporated for violations of its permit conditions, including the violations described in paragraph 22.

Count III

24. Complainant incorporates paragraphs 1 through 15 of this Complaint, as if set forth in this paragraph.

25. Emissions from Sparta Manufacturing Company's cupola melt process (process P30) are subject to Best Available Control Technology limitations as specified in permits 95-MWH-051 and 98-RV-120. BACT limitations for the cupola melt system include maintaining a maximum emission rate of 14.5 pounds of carbon monoxide per ton of metal charged.

26. Based upon stack tests done on May 5 through May 7,

1998, Sparta Manufacturing Company has violated its permit conditions by exceeding its carbon monoxide limit of 14.5 pounds of carbon monoxide per ton metal charged in the CEA baghouse, Ellico baghouse, and Central baghouse.

27. On September 23, 1999, U.S. EPA issued a NOV to Sparta Manufacturing Company, Incorporated for violations of its permit conditions, including the violations described in paragraph 26.

Count IV

28. Complainant incorporates paragraphs 1 through 15 of this Complaint, as if set forth in this paragraph.

29. Permits 95-MWH-051 and 98-RV-120 specify that visible emissions at Sparta Manufacturing Company are limited to 20% opacity.

30. Based upon a visual inspection conducted by the Wisconsin Department of Natural Resources on December 11, 1998, Sparta Manufacturing Company has violated the 20% opacity limit for visible emissions provided under permits 95-MWH-051 and 98-RV-120.

31. On September 23, 1999, U.S. EPA issued a NOV to Sparta Manufacturing Company, Incorporated for violations of its permit conditions, including the violations described in paragraph 30.

Proposed Civil Penalty

32. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

33. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act,

Complainant proposes that the Administrator assess a civil penalty against Respondent of \$57,400. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 ("penalty policy"). Enclosed with this : complaint is a copy of the penalty policy.

34. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

35. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the "Consolidated Rules") at 64 Fed. Reg. 40138 (July 23, 1999) (to be codified at 40 C.F.R. Part 22) govern this proceeding to assess a civil penalty. Enclosed with this complaint is a copy of the Consolidated Rules.

Filing and Service of Documents

36. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

37. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Alan Walts to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Alan Walts at (312) 353-8894. Alan Walts's address is:

Alan Walts (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

38. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Alan Walts and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Opportunity to Request a Hearing

39. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator

proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 40 through 44 below.

Answer

40. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 36, above, and must serve copies of the written answer on the other parties.

41. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and Federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or Federal legal holiday, the time period extends to the next business day.

42. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the

allegation is deemed denied.

43. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

44. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 39 above.

45. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference


46. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Alan Walts at the address or phone number specified in paragraph 37, above.

47. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

48. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable Federal, State, or local law.

5/18/00
Date


Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

00-1-100-010

In the Matter of Sparta Manufacturing Company, Incorporated
Docket No. CAA-5- 2000-010

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 64 Fed. Reg. 40138 (July 23, 1999) (to be codified at 40 C.F.R. Part 22), and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent by placing them in the custody of the United States Postal Service addressed as follows:

Steven T. Holtan, President
Sparta Manufacturing Company, Incorporated
445 Holtan Street
Sparta, Wisconsin 54656-2582

on the 19th day of May, 2000.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: Z199026508